

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY  
COMPANY as administrator for RELIANCE  
INSURANCE COMPANY,

Plaintiff,

vs.

DORMITORY AUTHORITY – STATE OF  
NEW YORK, TDX CONSTRUCTION CORP.  
AND KOHN PEDERSEN FOX ASSOCIATES,  
P.C.

Defendants.

CASE NO. 07-CV-6915 (DLC)  
ECF CASE

CIVIL ACTION

DORMITORY AUTHORITY OF THE STATE  
OF NEW YORK AND TDX  
CONSTRUCTION CORP.,

Third-Party Plaintiffs,

vs.

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

**CERTIFICATION OF TRACEY K. WISHERT,  
ESQ. IN SUPPORT OF HARLEYSVILLE'S  
MOTION FOR SUMMARY JUDGMENT**

TRATAROS CONSTRUCTION, INC. and  
TRAVELERS CASUALTY AND SURETY  
COMPANY,

Fourth-Party Plaintiffs,

vs.

CAROLINA CASUALTY INSURANCE  
COMPANY; BARTEC INDUSTRIES, INC.;  
DAYTON SUPERIOR SPECIALTY  
CHEMICAL CORP. a/k/a DAYTON  
SUPERIOR CORPORATION; SPECIALTY  
CONSTRUCTION BRANDS, INC. t/a TEC;  
KEMPER CASUALTY INSURANCE  
COMPANY d/b/a KEMPER INSURANCE  
COMPANY; GREAT AMERICAN

INSURANCE COMPANY; NATIONAL UNION FIRE INSURANCE COMPANY; NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.; UNITED STATES FIRE INSURANCE COMPANY (U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS INSURANCE COMPANY; ZURICH AMERICAN INSURANCE COMPANY d/b/a ZURICH INSURANCE COMPANY; OHIO CASUALTY INSURANCE COMPANY d/b/a OHIO CASUALTY GROUP; HARLEYSVILLE MUTUAL INSURANCE COMPANY (a/k/a HARLEYSVILLE INSURANCE COMPANY); JOHN DOES 1-20 AND XYZ CORPS. 1-20,

Fourth-Party Defendants.

I, Tracey K. Wishert, an attorney duly licensed to practice law in the State of New York and the United States District Court, Southern District of New York, hereby certify under penalty of perjury that the following is true and correct:

1. I am an associate with the law firm of Riker, Danzig, Scherer, Hyland & Perretti LLP, counsel to Fourth Party Defendant Harleysville Insurance Company of New Jersey (“Harleysville”), and am fully familiar with the facts stated herein based upon my review of the file maintained by this office.

2. I submit this Certification in support of Harleysville’s motion for summary judgment.

3. Attached hereto as **Exhibit A** is a true and correct copy of Harleysville Policy No. CB-8E8397, issued to Bartec Industries, Rencon Corp. for consecutive policy periods from May 26, 2002 to May 26, 2004.

4. Attached hereto as **Exhibit B** is a true and correct copy of Prime Contract 16 for the Baruch Project.

5. Attached hereto as **Exhibit C** is a true and correct copy of Change Order GC2-028.

6. Attached hereto as **Exhibit D** is a true and correct copy of the Subcontract between Bartec Industries and Trataros Construction, Inc. for work performed at Baruch College.

7. Attached hereto as **Exhibit E** is a true and correct copy of relevant pages from the transcript of the deposition of Craig Negus.

8. Attached hereto as **Exhibit F** is a true and correct copy of relevant pages from the transcript of the deposition of Charles Bartlett.

9. Attached hereto as **Exhibit G** is a true and correct copy of Change Order GC2-164.

10. Attached hereto as **Exhibit H** is a true and correct copy of the Third Party Complaint filed by DASNY on September 28, 2007.

11. Attached hereto as **Exhibit I** is a true and correct copy of the Fourth Party Complaint filed by Trataros Construction, Inc. on November 14, 2007.

12. Attached hereto as **Exhibit J** is a true and correct copy of relevant pages from the transcript of the deposition of Athena Curis.

13. Attached hereto as **Exhibit K** is a true and correct copy of the expert report of Simpson, Gumpertz, and Heger, dated March 20, 2009.

Morristown, New Jersey  
February 19, 2010

/s/ Tracey K. Wishert  
**Tracey K. Wishert**